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PROTECTING CONSUMERS SINCE 1975

November 17, 2021

VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk/Executive Director
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Docket 2021-291-A
Generic Docket to Study and Review Prefiled Rebuttal and Surrebuttal Testimony in Hearings and Related Matters
Department of Consumer Affairs Comments in Response to Commission Motion

Dear Ms. Boyd:

The Department submits this letter in response to Commissioner Caston's motion during the November 3, 2021 business meeting. Commissioner Caston's motion requested comments on the Commission's procedures, substantive requirements and timelines for pre-filed testimony and exhibits, including the need for pre-filed written rebuttal and/or surrebuttal testimony. The Department's comments are being made in the context of a rate case.

The Commission is a quasi-judicial body and functions like many other regulatory agencies that conduct adjudicative hearings. While the Commission hears justiciable controversies, its procedures are distinct from those in a traditional court and tailored for the unique subject matter that must be addressed. The procedures that are currently in place provide appropriate protections of parties' rights while also allowing for these unique matters to be resolved efficiently and effectively. The current pre-filing procedures also allow South Carolina residents to participate to an extent they may not otherwise be able if the Commission did not use pre-filed testimony.

Need for Pre-filed Direct, Rebuttal, and Surrebuttal Testimony

The Department believes pre-filed written testimony provides the most effective and efficient means to address the many, complex issues before the Commission. Because the Commission must issue an order within six months after the filing of an application for an adjustment of rates, positions and supporting materials must be established quickly, but thoroughly. The current pre-filed testimony system allows parties to fully assess each other's positions and address them as needed prior to the hearing. Further, it allows the Commission to understand the positions of the parties in advance and to formulate questions it would like to address during the hearing.

The Department opposes eliminating pre-filed rebuttal and surrebuttal testimony. Doing so could unnecessarily lengthen hearings and make them more tedious. Witnesses would have to work through most issues at the hearing instead of being able to thoroughly assess them beforehand. Such a change would risk limiting the amount of information and analysis available to the Commission.

The Department also opposes eliminating surrebuttal testimony generally. Under the current procedures, companies have three written submittals (application, direct, and rebuttal) and other parties have two. If surrebuttal were eliminated, other parties would only have direct testimony in which to make their cases. Further, having direct, rebuttal and surrebuttal can lead to resolutions of issues that might not otherwise happen. When parties engage in multiple rounds of testimony, the issues become clearer as the rounds of testimony progress. The additional clarity and explanations can help reach a consensus among opposing parties and limit the number of issues that must be decided.

Other Commissioner Comments

During discussion of Commissioner Caston's motion at the November 3rd business meeting, there were additional comments that the Department would also like to address.

Commissioner Caston commented that the substance of direct testimony and exhibits may not be as robust in evidentiary support of an application as rebuttal testimonies. The Department notes rebuttal and surrebuttal testimonies certainly help narrow and define the primary issues in a rate case. However, utilities bear the burden of justifying their requests. If a utility does not submit sufficient justification, then the Commission should require additional information with the filing. We believe the additional recommendations we enumerate below will help address Commissioner Caston's comment.

Commissioner Powers suggested that the length, and therefore cost, of hearings may be reduced by eliminating some oral testimony. The Department agrees that one of the benefits of pre-filed written testimony is that it allows the Commission to review each party's positions in advance, thereby saving time during a hearing. However, witnesses should appear during hearings so that they can be subject to commissioner questions and cross examination. Such examination

not only allows substantive issues to be addressed, but also helps the Commission judge the credibility of a witness, one of its most important roles. However, to save time, we believe testimony summaries could be eliminated or time restricted during hearings, or they could be pre-filed instead.

Commissioner Irvin commented that any substantive changes to the Commission's process might require regulatory changes. With respect to any changes that would eliminate pre-filed written testimony, we agree. S.C. Code. Ann. § 58-3-140(D) requires "testimony to be reduced to writing and prefiled with the commission in advance of any hearing." S.C. Code. Ann. Reg. § 103-845(C) notes that "[i]n proceedings involving utilities, the Commission shall require any party …to file copies of testimony and exhibits and serve them on all other parties … in advance of the hearing."

Additional Recommendations

While we support the current system, we also believe the Commission should add additional requirements to further improve the efficiency and effectiveness of pre-filed testimony and to allow further time for Commission consideration of complex issues. The Department made similar recommendations in comment letters submitted during the Commission's quintennial review of regulations in Docket 2020-247-A. Those previous recommendations included:

1) Requiring utilities to file direct testimony at the same time as a rate case application.
2) Establishing minimum filing requirements for rate case applications, which would include supporting documents like models, workpapers, spreadsheets, tables, formulas, and underlying data.
3) Requiring uniform formatting of the application and schedules.

I have attached the Department's relevant letters from Docket 2020-247-A for further reference. As previously indicated, these recommendations are designed to not only level the playing field by providing additional time for all intervenors to review a company's application, testimony, and supporting documents, but they will also lead to more thorough, informed hearings and final orders.

Conclusion

The Department appreciates the opportunity to provide comments as the Commission considers these matters. We look forward to further discussion with the Commission and other interested parties.

Regards,

Roger Hall, Esq.
Deputy Consumer Advocate

Attachments
Representative DCA
Letters from Docket
2020-247-A

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February 9, 2021

VIA ELECTRONIC FILING
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RE: Docket 2020-247-A
Workshops Regarding the Public Service Commission's Formal Review of Its Regulations Pursuant to S.C. Code Ann. Section 1-23-120(J)
Department of Consumer Affairs Comments on PSC Practice and Procedure

Dear Ms. Boyd:

Pursuant to the December 20, 2020 Amended Notice, the Department of Consumer Affairs is submitting comments on S.C. Code Ann. Regs. 103-800 *et seq.* and notifying the Commission of its intent to participate in the February 19, 2021 workshop. The Department appreciates this opportunity and looks forward to further discussing these important issues with the Commission and other interested parties.

Background

In South Carolina, pursuant to S.C. Code Ann. 58-5-240(C), the Commission must issue an order within 6 months after the filing of an application for an adjustment of rates. Utilities have months or even years to prepare their filing. The Office of Regulatory Staff ("ORS") has the ability to audit companies and request documents before a filing. Other parties do not have these abilities and therefore, are at an extreme time disadvantage when requesting, receiving, reviewing, and responding to a company's application and associated calculations and supporting documents.

Currently, the substantive requirements for a filing are limited, and primarily found in S.C. Code Ann. Regs. 103-823(A)(3), which states:

The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

(a) Balance sheet;
(b) Profit and loss statement;
(c) Accounting and pro forma adjustments;
(d) Computation of proposed increase or decrease;
(e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;
(f) Statement of fixed assets and depreciation reserve;
(g) Rates of return on rate base and on common equity.

The Commission's regulations do not require companies to submit relevant workpapers and other supporting documentation that would allow other parties to independently analyze and verify the various figures, calculations, and requests of the companies. These supporting documents are typically requested and provided during the discovery process, after the application has been filed and the 6-month clock has started.

Further, companies typically do not file direct testimony for several weeks after the application and, pursuant to the current regulations, companies have 20 days to respond to discovery requests. Therefore, 1 to 2 months may pass before a party has determined and received relevant discovery documents which will help it prepare its testimony and case. This timeframe assumes the company does not object to a discovery request and has provided its responses in a manner sufficient for the party to assess them.

Given the short time in which the Commission is statutorily required to issue its order, the Department recommends the regulations require, and specifically prescribe, additional documentation to be submitted at the time of an application. Additionally, given the number of proceedings reviewed by the Commission, a uniform format for applications and the submission of data would benefit the Commission, parties, and consumers.

Recommendations

1) **A company must file its direct testimony at the same time as its application.** As noted above, utilities have months or even years to prepare their applications for filing. Therefore, companies should have testimony already prepared at the time of filing. Filing testimony with the application will eliminate an unnecessary delay and provide additional time for other parties to review these documents. It would also allow additional time in scheduling for the hearing and proposed orders, as well as preparation of the final order by the Commission.

The following are examples of the unnecessary delays created by not filing direct testimony with the application:

- Docket 2020-125-E - Dominion Energy South Carolina ("DESC") filed its application for adjustment of rates on August 14, 2020; the Commission issued a schedule on August 21 which provided for DESC to submit its direct testimony by September 4, 2020, nearly three

(3) weeks after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by February 21, 2021.

- Docket 2019-290-WS – Blue Granite Water Company ("BGWC") filed its application for adjustment of rates on October 2, 2019; the Commission issued a schedule on October 23, 2019 which provided for BGWC to submit its direct testimony by December 30, 2019, nearly three (3) months after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by April 2, 2020.

- Docket 2019-281-S – Palmetto Utilities Inc. ("PUI") filed its application for adjustment of rates on November 27, 2019; the Commission issued a schedule on December 13, 2019 which provided for PUI to submit its direct testimony by March 3, 2020, over three (3) months after its application was filed. Pursuant to S.C. Code Ann. 58-5-240(C), the Order would've been due by May 27, 2020.

2) **A company must submit with its application all supporting documents, including studies, models, workpapers, spreadsheets, tables, formulas, and data that support its requests.** For this requirement to be fully beneficial, the information should be presented in its native format with all formulas intact and unlocked. As noted previously, providing this information with the application will avoid unnecessary delays during the discovery process. Further, it will provide for a more open and thorough review of all relevant information. Without this information, particularly the workpapers and models with intact formulas, there is no way for a party, and therefore the Commission, to verify the calculations and assumptions submitted by the company in support of its positions and requests.

These are all items that should exist at the time of filing, do not require a company to produce anything beyond what has already been relied on to support its application, and are typically requested and produced during discovery. However, if the company relies upon proprietary information in its application, the Commission should also require this information be available to all parties.

3) **Require uniform formatting of the application and schedules and a brief summary of the application.** Current applications are confusing to most consumers. This is not only due to the complex subject matter of these proceedings, but also the length of the filings and complicated tables and charts that accompany them. While it is necessary for utilities to provide an abundance of data and information, customers should not have to interpret it all to understand the basic reasoning behind the company's requests. Additionally, parties should be able to locate information more readily.

By providing a uniform list of schedules, the Commission could ensure that, for any filing, the same information is located in the same schedule, thereby saving all parties time in review. Further, providing a clearer synopsis of all relevant information in a standardized format would lead to better understanding of the requests by consumers. This synopsis should include the use of bullets and tables, as opposed to a complex narrative, and be incorporated into the Commission's Notice of Filing that is prepared for each case.

4) **All pleadings and testimony should be in word or searchable pdf format, as applicable.** For the sake of uniformity, as well as ease of review, the Commission should require these or similar formats for all applicable documents (e.g., spreadsheets would be submitted in excel). Most parties already comply with this recommendation. However, occasionally, documents are submitted as scanned pdfs, or are otherwise not searchable. In these instances, other parties must have the ability to convert the documents to a searchable format. The ability to search a document is invaluable in utility rate cases, particularly those involving dozens of witnesses and thousands of pages of pleadings and testimony. Without this ability, tremendous time is lost and valuable information can be overlooked.

5) **Increase the maximum number of interrogatories, shorten the time for utilities to respond to discovery, and make responses available to all parties.** Regulation 103-833 currently provides for the submission of written interrogatories and requests for production. The regulation requires responses within 20 days. Regulation 103-835 provides "[t]he S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations." SCRCP 33(b)(9) limits interrogatories to 50 questions "except by leave of court upon good cause shown." While the previous recommendations are designed to limit the need for discovery, due to the complexity of utility cases, parties should not be limited in their discovery. Further, allowing 20 days for the company to respond to discovery requests impacts the ability of other parties to formulate testimony, particularly between rebuttal and surrebuttal when timeframes are often shortened.

Utilities have months to prepare filings and the answers to discovery questions should be readily available in most instances. In the event additional time is needed or the number of discovery requests becomes overly burdensome, existing discovery rules and Commission regulations are sufficient to address the concerns. Finally, providing all discovery responses to all parties could also save time and effort for the utility. This information could be provided electronically on a website without the need for mailing.

Summary

The Department believes the recommendations discussed above will provide efficiency and uniformity to rate case proceedings and result in more thorough, informed hearings and final orders. Many states have adopted "Minimum Filing Requirements" or "Standard Filing Requirements" which demonstrate these proposed recommendations. Included with this letter, the Department has provided rules and regulations (or portions thereof) from various states that require parameters similar to those suggested herein. Certain provisions that relate to the Department's comments have been highlighted and notes have been added to indicate the applicable Department recommendation. The Department does not imply that the Commission should adopt all of the language or methods included in the exhibits. These examples, rather, are provided to both demonstrate that other states have recognized the importance of gathering specific information from regulated utilities at the inception of the ratemaking process and to give the Commission an idea of the various ways the requirements can be implemented.

- Exhibit 1- Arkansas Rule 4.08 (Evidence), 8.08 (Information Required at Filing of General Rate Change Application), and 8.09 (Filing Instructions); and Appendices 8-1 (Minimum Filing Requirements) and 8-1A-Electric (Index of Schedules)

- Exhibit 2 – Florida. Minimum Filing Requirements for Investor-Owned Electric Utilities (Form PSC 1026) Also available at http://www.flrules.org/Gateway/reference.asp?No=Ref-12642 Florida Regulation 25-6.043(1)(h) requires these spreadsheets to be submitted "in Microsoft Excel format with formulas intact and unlocked".

- Exhibit 3- North Carolina. Rule R1-17 and Form E-1. Also available at https://www.ncuc.net/ncrules/ncucrules.pdf and https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=2811c0ff-223a-4542-99b5-bc81eb633ad3

- Exhibit 4- Utah. Rule R746-700. Complete Filings for General Rate Case and Major Plant Addition Applications. Also available at https://rules.utah.gov/publicat/code/r746/r746-700.htm

- Exhibit 5- Connecticut. Standard Filing Requirements for Large Public Utility Companies. Provided to demonstrate the detailed requirements and schedules for any "public service company with 50,000 or more customers, or jurisdictional gross revenues in excess of ten million dollars ($10,000,000)."

For additional examples of states with detailed filing requirements that include uniform schedule submittals see:

- Montana's Minimum Rate Case Filing Standards for Electric, Gas, and Private Water Utilities. Available at http://www.mtrules.org/gateway/chapterhome.asp?chapter=38%2E5

- The Illinois Standard Information Requirements for Public Utilities and Telecommunications Carriers in Filing For An Increase In Rates. Available at- https://www.ilga.gov/commission/jcar/admincode/083/08300285sections.html

The Department appreciates the opportunity to participate in this process and we hope you find this information helpful. Please let me know if we can be of any further assistance, including to provide additional examples, proposals, or other desired information.

Regards,

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March 26, 2021

VIA ELECTRONIC FILING
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RE: Docket 2020-247-A
Workshops Regarding the Public Service Commission's Formal Review of Its Regulations Pursuant to S.C. Code Ann. Section 1-23-120(J)
Department of Consumer Affairs Comments on R. 103-823

Dear Ms. Boyd:

Pursuant to the February 19, 2021 Second Amended Notice and the March 18, 2021 Commission Staff Notice of Proposed Minimum Filing Requirements ("MFRs") for Rate Case Applications, the Department of Consumer Affairs is submitting the following comments and notifying the Commission of its intent to participate in the April 5, 2021 workshop.

On February 9, 2021, the Department submitted comments on S.C. Code Ann. Regs. 103-800 *et seq.* (See Attachment A). That comment letter included three recommendations that are also applicable to the current review:

1) A company must file its direct testimony at the same time as its application.
2) A company must submit with its application all supporting documents, including studies, models, workpapers, spreadsheets, tables, formulas, and data that support its requests.
3) Require uniform formatting of the application and schedules and a brief summary of the application.

Given the limited time in which the parties have to prepare their cases, the Department believes its recommendations will help level the playing field by providing additional time for all intervenors

to review a company's application, testimony, and supporting documents. The Department's recommendations will also improve efficiency and uniformity in rate case proceedings and ultimately lead to more thorough, informed hearings and final orders.

Please find short summaries of the Department's comments below:

a. Filing direct testimony and submitting supporting documents with an application

The companies have months to prepare their applications, while intervenors have a condensed timeline to review the filing and make a decision of whether or not to participate. Interested parties have many considerations when deciding whether to intervene in a matter including: available resources, time constraints, and overall level of impacts a case might have on them or their constituents. These same considerations impact a party's preparation and submission of discovery and expert testimony. Having the direct testimony and supporting documentation in the public record will help all parties, including the Department, assess what, if any role, they may take in a rate case. Providing this information early in the process may further negate the need for standard discovery requests, thereby reducing the amount of time (and money) utilities spend responding to such requests.

If a company is concerned with the timing of providing this information, it could wait 2-3 weeks to file its application so the testimony and supporting documents can be included simultaneously.

b. MFRs

The schedules the Department provided as examples demonstrate that our requests reflect common practices in many states. As noted previously, the Department does not particularly favor one state's requirements over another. We simply believe: (1) additional information should be provided with the application and (2) information should be made readily accessible and identifiable by requiring it to be submitted on uniform schedules that are consistent from one filing to the next. The Commission's proposed MFRs would provide the most relevant information in a readily accessible format.

The Department would not object to allowing companies to include specific information in the format that reflects their individual business practices; however, we do believe the schedules themselves should be the same from case to case. In other words, and by way of example, for every electric rate case, regardless of the format, schedule A-1 would include the revenue increase and schedule B-1 would include the adjusted rate base.

Conclusion

The Department supports the Commission's proposal and appreciates this opportunity to comment. We look forward to working with other parties to address any concerns they might have and engaging in further discussion of these important issues.

Regards,

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April 1, 2021

VIA ELECTRONIC FILING

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RE: Docket 2020-247-A
Workshops Regarding the Public Service Commission's Formal Review of Its Regulations Pursuant to S.C. Code Ann. Section 1-23-120(J)
Department of Consumer Affairs R. 103-823 Reply Comments

Dear Ms. Boyd:

Pursuant to the February 19, 2021 Second Amended Notice, the Department of Consumer Affairs (the "Department") submits the following comments in reply to those submitted by other parties in this matter. With regard to rate case applications and the Commission Staff's proposed Minimum Filing Requirements ("MFRs"), the Department previously recommended a company file its direct testimony and supporting documents simultaneously with its application, and recommended the Commission require uniform schedules similar to those in the proposed MFRs. Several utility companies have participated in this docket and most of the companies provided constructive comments related to the application process and their preferred filing requirements. Some comments were also critical of the Department and its recommendations. Please find our replies below.

a. Filing direct testimony with an application

Duke Energy Progress and Duke Energy Carolinas (collectively, "Duke") noted they frequently file testimony at the same time as their rate case applications and did not object to the Department's proposal. The Office of Regulatory Staff ("ORS") also supported this

recommendation in its February 17, 2021 letter, noting it would provide additional time for "audit, examination, discovery, testimony preparation and drafting of a proposed order".

The "SouthWest Water utilities" objected to providing testimony with an application because the utility "can better identify and testify to the salient issues after third parties have intervened and stated their concerns" and therefore any testimony provided earlier would be "more general and less useful to the Commission." The primary purpose of direct testimony should be to support the company's application. While direct testimony may be used to address potential intervenors' arguments, rebuttal testimony provides the companies ample opportunity to respond to any intervenors' testimonies.

b. Filing supporting documents with an application

In its February 17, 2021 comment letter regarding R. 13-800 et seq, ORS stated it "supports the SCDCA's recommendations" including requiring "rate applications to include **final** versions of all supporting schedules and financial documentation". ORS' comments reflect that earlier submittal of this information would allow it more time to review applications and fulfill its statutory duties.

Most of the companies objected to this recommendation because the documents may be confidential or proprietary and would need to be provided with safeguards (presumably non-disclosure agreements). While the Department does not object to signing non-disclosure agreements for information that is truly confidential or proprietary, if a company relies upon proprietary or confidential information to support its rate increase request, the information must be available to all parties so that it can reviewed and critiqued. A company may choose to redact or mark such information to safeguard it; however, the earlier the information is submitted, the earlier the parties can review confidentiality issues and enter non-disclosure agreements, if necessary.

Several utilities noted issues which might prevent them from filing supporting materials at the same time as the application. Others noted the documents are more efficiently obtained through early discovery. Duke noted the documents could be provided within 2 weeks of the application filing. Current Commission procedures require discovery responses to be submitted within 20 days. The companies seemingly view these amounts of time as inconsequential in the ratemaking process. We disagree. Because the overall rate case process must be completed within 6 months and hearings typically begin 1 to 2 months before the final order is due, 2 to 3 weeks is a significant amount of time. As an example, in Dominion Energy South Carolina's ("DESC") recent rate case, the hearing started 144 days after the application was filed. Therefore, in that case, if a party submitted discovery on the day the application was filed, nearly 1/7 of the overall preparation time would have elapsed before DESC's discovery responses were required to be submitted 20 days later. Further, these discovery requests would be very generic. They would be based only on an initial review of the application and not direct testimony, which was not required to be submitted until nearly 3 more weeks after the application was filed.

c. Uniform schedules and Minimum Filing Requirements

On February 26, 2021, the Commission asked the parties in this docket to provide feedback on its proposal to use Florida's and Arkansas' filing requirements as a baseline for developing South Carolina requirements. The Department submitted its preferences as requested on March 5, 2021. In a March 17, 2021 letter regarding water and sewer regulations, the ORS stated it "continues to support the DCA's recommendations relating to rate case applications and minimum filing requirements" because it would help ORS review applications "more thoroughly".

Duke responded to the Commission's request for MFR review and noted it generally supports MFRs, but does not think any required schedules should be uniformly formatted. Duke also provided a detailed spreadsheet reflecting its analysis of the Florida, Arkansas, and North Carolina schedules, while also suggesting the Commission build off existing foundations in South Carolina to develop MFRs. Piedmont Natural Gas Company responded to the Commission's request noting that it "routinely provides robust MFRs" in North Carolina rate cases.

The Department appreciates the companies' thoughtful responses to the Commission's MFR review request and candor regarding their existing practices in other jurisdictions. As noted in our March 26th letter, the Department would not object to allowing companies to include specific information in the format that reflects their individual business practices, so long as the schedules themselves are the same for every company and rate case. The Department also does not particularly favor one state's requirements over another.

Blue Granite filed comments on March 26, 2021 which also echoed Duke's concerns about formatting of the information in each schedule. Blue Granite further suggests the Commission permit a utility to reference its own documents rather than including the information in a particular schedule. While the Department does not believe the specific information in each schedule must be formatted uniformly among utilities, they should be required to submit the information in the applicable schedule.

On March 17, 2021 Blue Granite also submitted its comments on S.C. Code Ann. Regs. 103-500 and 700 *et seq*. Some of those comments are relevant to rate case applications and MFRs. Blue Granite states "many utilities tend to use similar rate case exhibit model structures" which "lends consistency…and familiarity to intervenors and the Commission". While the Department appreciates that many utilities tend to do this, the Department's recommendations were made to ensure all utilities will do so. If all companies submit information on the same schedules, the applications can become familiar to all parties, no matter how often they decide to intervene to represent their particular interests.

DESC has not included any state preferences in its responses to the Commission's February 26th request. Instead, DESC proposes the Commission reject the requirement for additional exhibits in rate cases. It claims doing so would make rate cases more expensive and inefficient. It notes these costs would be borne by customers. To support is position, it references its work with

ORS leading up to its most recent rate case and suggests the Department "has every right to coordinate its discovery needs with ORS both before and after an application is filed." (See FN 2 in DESC's March 5, 2021 letter). While this is debatable due to the "confidential or proprietary" provisions in S.C. Code 58-4-55(A), it ignores the fact that no other party would have this luxury. The Department's recommendations were made to help level the playing field for all intervenors.

To further support its claims of efficiency in the current discovery process, DESC notes that due to its pre-filing preparation with ORS, it was able to provide 24,000 pages of discovery to ORS "within 20 days of the commencement of the case" and this same information "was available to be shared with all parties approximately 20 days after the application was filed." In addition to the unnecessary timing delays created by using discovery to obtain supporting documents, it is not efficient for a party to comb through 24,000 pages of responses to find the information that, in essence, is standard to each rate application. The current proposed MFRs would provide the most relevant information in a readily accessible format. The information would be provided at the time of filing. After reviewing that information and the responses provided to ORS, the parties could then decide if submitting supplemental, tailored discovery questions is necessary.

In its March 26, 2021 letter, DESC also states MFRs "would interfere with the ability of the parties to support collaborative efforts…in the months and weeks leading up to a filing". DESC recommends the Commission instead "encourage the evolution, expansion and development of the collaborative approach" it discusses. The Department intended its recommendations to evolve and expand the current processes; however, at this time, the only "parties" that can collaborate in the "months and weeks" before a filing are the utility and ORS. If DESC would allow the Department, as well as other potential intervenors, to submit information requests related to rate case applications before they are filed, then we would support that approach as well.

DESC's final argument against MFRs is the potential added cost of preparing them. (Lockhart Power and the SouthWest Water utilities made similar arguments.) DESC estimates it cost $466,000 to prepare the application and 260 pages of exhibits in its current rate case. It then extrapolates those costs and compares them to a Duke MFR application in Florida which had 3,012 pages. Based on this exercise, DESC estimates that filing MFRs in South Carolina could cost it an additional $4.5 million. DESC presents limited information to support this estimate, which appears to be based only on the number of pages of documents filed in each case.

The Department certainly does not want to create additional costs for ratepayers. We recognize that in the event MFRs are adopted, there could be some additional costs in the first subsequent rate case due to the implementation of a new process. We suspect those costs might be offset by reductions in both discovery requests and ORS audit responses. However, to better understand potential cost implications, we believe additional information would be required. Using DESC's March 26th example, some questions could include:

- How much did it cost DESC to produce the 24,000 pages of discovery for ORS?
- How much did the Florida application cost Duke to prepare?

- How much discovery was requested in the Duke Florida case (by the PSC or intervenors) compared to the DESC South Carolina case?
- How much did it cost DESC to respond to discovery in South Carolina vs. Duke's costs in Florida?
- How does Dominion Energy prepare its applications in other states where MFRs are used and how much do they cost to prepare? (We believe they are required in North Carolina, Ohio, and Virginia and possibly other states where Dominion operates)
- How does the amount of discovery and related costs in these states compare to South Carolina under current processes?

These are just some of the questions we believe can aid in accurately assessing claims of increased costs.

Conclusion

Utilities have a tremendous advantage in both time and resources when it comes to preparing for, and defending, a request for a rate increase. The Department hopes its recommendations will help streamline information sharing, ensure intervenors a more level playing field within which to present their cases, and produce more thorough, informed hearings and final orders. We believe the Commission's proposed MFRs are a great starting point and we look forward to further discussing these important issues with the Commission and other interested parties.

Regards,

Roger Hall, Esq.
Deputy Consumer Advocate